



House of Representatives

File No. 899

General Assembly

January Session, 2011

(Reprint of File No. 648)

Substitute House Bill No. 6631
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
June 3, 2011

**AN ACT CONCERNING THE CREATION OF A REPLACEMENT BIRTH
CERTIFICATE PURSUANT TO A GESTATIONAL AGREEMENT.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 7-48a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 [On and after January 1, 2002, each birth] (a) Each original certificate
4 of birth shall be filed with the name of the birth mother recorded.

5 (b) If the birth is subject to a gestational agreement, the Department
6 of Public Health shall create a replacement certificate [in accordance
7 with an order from a court of competent jurisdiction not later than
8 forty-five days after receipt of such order or forty-five days after the
9 birth of the child, whichever is later. Such] of birth immediately upon:
10 (1) Receipt of a certified copy of an order of a court of competent
11 jurisdiction approving a gestational agreement and issuing an order of
12 parentage pursuant to such gestational agreement, if such order is
13 received by the department after the birth of the child, or (2) the filing
14 of an original certificate of birth, if such order is received by the

15 department prior to the birth of the child. The department shall
16 prepare the replacement certificate of birth for the child born of the
17 agreement in accordance with such order. The replacement certificate
18 of birth shall include all information required to be included in a
19 certificate of birth of this state as of the date of the birth, except that the
20 intended parent or parents under the gestational agreement shall be
21 named as the parent or parents of the child. When a certified copy of
22 [such] a certificate of birth is requested by an eligible party, as
23 provided in section 7-51, for which a replacement certificate of birth
24 has been created pursuant to this subsection, a copy of the replacement
25 certificate of birth shall be provided. The department shall seal the
26 original certificate of birth in accordance with the provisions of
27 subsection (c) of section 19a-42.

28 (c) Immediately after a replacement certificate of birth has been
29 prepared, the department shall transmit an exact copy of such
30 certificate to the registrar of vital statistics of the town of birth and to
31 any other registrar as the department deems appropriate. [The town]
32 Such registrar shall proceed in accordance with the provisions of
33 section 19a-42.

34 Sec. 2. Section 7-36 of the general statutes is repealed and the
35 following is substituted in lieu thereof (*Effective October 1, 2011*):

36 As used in this chapter and sections 19a-40 to 19a-45, inclusive,
37 unless the context otherwise requires:

38 (1) "Registrar of vital statistics" or "registrar" means the registrar of
39 births, marriages, deaths and fetal deaths or any public official charged
40 with the care of returns relating to vital statistics;

41 (2) "Registration" means the process by which vital records are
42 completed, filed and incorporated into the official records of the
43 department;

44 (3) "Institution" means any public or private facility that provides
45 inpatient medical, surgical or diagnostic care or treatment, or nursing,

46 custodial or domiciliary care, or to which persons are committed by
47 law;

48 (4) "Vital records" means a certificate of birth, death, fetal death or
49 marriage;

50 (5) "Certified copy" means a copy of a birth, death, fetal death or
51 marriage certificate that (A) includes all information on the certificate
52 except such information that is nondisclosable by law, (B) is issued or
53 transmitted by any registrar of vital statistics, (C) includes an attested
54 signature and the raised seal of an authorized person, and (D) if
55 submitted to the department, includes all information required by the
56 commissioner;

57 (6) "Uncertified copy" means a copy of a birth, death, fetal death or
58 marriage certificate that includes all information contained in a
59 certified copy except an original attested signature and a raised seal of
60 an authorized person;

61 (7) "Authenticate" or "authenticated" means to affix to a vital record
62 in paper format the official seal, or to affix to a vital record in electronic
63 format the user identification, password, or other means of electronic
64 identification, as approved by the department, of the creator of the
65 vital record, or the creator's designee, by which affixing the creator of
66 such paper or electronic vital record, or the creator's designee, affirms
67 the integrity of such vital record;

68 (8) "Attest" means to verify a vital record in accordance with the
69 provisions of subdivision (5) of this section;

70 (9) "Correction" means to change or enter new information on a
71 certificate of birth, marriage, death or fetal death, within one year of
72 the date of the vital event recorded in such certificate, in order to
73 accurately reflect the facts existing at the time of the recording of such
74 vital event, where such changes or entries are to correct errors on such
75 certificate due to inaccurate or incomplete information provided by the
76 informant at the time the certificate was prepared, or to correct

77 transcribing, typographical or clerical errors;

78 (10) "Amendment" means to (A) change or enter new information
79 on a certificate of birth, marriage, death or fetal death, more than one
80 year after the date of the vital event recorded in such certificate, in
81 order to accurately reflect the facts existing at the time of the recording
82 of the event, (B) create a replacement certificate of birth for matters
83 pertaining to parentage and gender change, or (C) change a certificate
84 of birth, marriage, death or fetal death to reflect facts that have
85 changed since the time the certificate was prepared, including, but not
86 limited to, a legal name change or a modification to a cause of death;

87 (11) "Acknowledgment of paternity" means to legally acknowledge
88 paternity of a child pursuant to section 46b-172;

89 (12) "Adjudication of paternity" means to legally establish paternity
90 through an order of a court of competent jurisdiction;

91 (13) "Parentage" includes matters relating to adoption, gestational
92 agreements, paternity and maternity;

93 (14) "Department" means the Department of Public Health; [and]

94 (15) "Commissioner" means the Commissioner of Public Health or
95 the commissioner's designee;

96 (16) "Gestational agreement" means a written agreement for assisted
97 reproduction in which a woman agrees to carry a child to birth for an
98 intended parent or intended parents, which woman contributed no
99 genetic material to the child and which agreement (A) names each
100 party to the agreement and indicates each party's respective
101 obligations under the agreement, (B) is signed by each party to the
102 agreement and the spouse of each such party, if any, and (C) is
103 witnessed by at least two disinterested adults and acknowledged in
104 the manner prescribed by law; and

105 (17) "Intended parent" means a party to a gestational agreement
106 who agrees, under the gestational agreement, to be the parent of a

- 107 child born to a woman by means of assisted reproduction, regardless
108 of whether the party has a genetic relationship to the child.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	7-48a
Sec. 2	<i>October 1, 2011</i>	7-36

Section 1	<i>October 1, 2011</i>	7-48a
Sec. 2	<i>October 1, 2011</i>	7-36

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill codifies Department of Public Health's current procedures for processing gestational agreements and does not result in a fiscal impact.

House "A" struck the language of the underlying bill and replaced it with similar language that did not result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 6631 (as amended by House "A")******AN ACT CONCERNING THE ISSUANCE OF A REPLACEMENT BIRTH CERTIFICATE PURSUANT TO A GESTATIONAL AGREEMENT.*****SUMMARY:**

This bill eliminates the requirement for the birth mother's name on a replacement birth certificate that the Department of Public Health (DPH) creates when a birth arises out of a gestational agreement. It instead requires DPH to name the intended parents as the child's parents on the replacement certificate. By law, for births arising out of gestational agreements, DPH must seal the original birth certificate and registrars of vital statistics must provide a replacement copy to an eligible party who requests it.

The bill also changes the required timing of the creation of replacement birth certificates for births that are subject to gestational agreements. Current law requires DPH to create replacement certificates according to a court order within 45 days after receiving the order or the child's birth, whichever is later. Under the bill, if before the child's birth, DPH receives a certified copy of a court order that approves a gestational agreement and issues an order of parentage under it, the department must create the replacement certificate immediately upon the filing of the original certificate. If DPH receives a certified copy of such an order after the child's birth, it must create the replacement certificate immediately upon receiving the certified copy of the order. In either case, DPH must prepare the replacement certificate in accordance with the court order.

The bill defines "gestational agreement" and "intended parent."

The definitions apply to the bill as well as throughout the vital statistics statutes.

Under the bill, a “gestational agreement” is a written agreement for assisted reproduction between a woman who agrees to carry a child to birth and the intended parent or parents. The woman carrying the child to birth must not have contributed genetic material to the child. The agreement must (1) name the parties to it and indicate their obligations under it; (2) be signed by the parties and their spouses, if any; (3) be witnessed by at least two disinterested adults; and (4) be acknowledged as prescribed by law.

The bill defines an “intended parent” as a party to a gestational agreement who agrees under it to be the parent of a child born to a woman through assisted reproduction. This applies regardless of whether there is a genetic relationship between the intended parent and child.

The bill also makes minor and technical changes.

*House Amendment “A” strikes the underlying bill. The amendment (1) deletes a provision defining “birth mother” for purposes of the certificate as the woman who carries a child to birth under a gestational agreement, (2) specifies different timing requirements for the creation of the replacement certificate, based on whether DPH receives the court order before or after the child’s birth, (3) adds the definition of intended parent, and (4) adds to the definition of gestational agreement the condition that the woman bearing the child contributed no genetic material to the child.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Related Case

Raftopol v. Ramey (299 Conn. 681 (2011)) involved two plaintiffs (the intended parents) who entered a written gestational agreement with a gestational carrier. Prior to the birth of two children, the plaintiffs

brought a declaratory judgment action requesting that the court order DPH to issue a replacement birth certificate reflecting the plaintiffs, and not the carrier, as the children's parents. After the Superior Court found the gestational agreement valid and ordered DPH to issue a replacement birth certificate, DPH appealed.

In *Raftopol*, the Connecticut Supreme Court concluded that CGS § 7-48a (the statute that this bill amends) permits a non-biological intended parent who is not the child's adoptive parent to become a legal parent of that child through a valid gestational agreement. The court ruled that a court order under this statute entitles the intended parents to be named as parents on the replacement birth certificate, regardless of their biological relationship to the children.

The court noted certain provisions of the statute that it found ambiguous. According to the court, CGS § 7-48a does not (1) define the terms "birth mother" or "gestational agreement"; (2) address the nature and scope of the court order requiring DPH to create a replacement birth certificate; or (3) describe who may qualify and how, as a parent on a replacement certificate.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 44 Nay 0 (04/12/2011)

Public Health Committee

Joint Favorable

Yea 26 Nay 0 (05/11/2011)